



INTERIOR BOARD OF INDIAN APPEALS

Estate of Marlon Murray George

36 IBIA 210 (07/12/2001)

Denying reconsideration of:
36 IBIA 184



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF MARLON MURRAY : Order Denying Reconsideration
GEORGE :
: Docket No. IBIA 01-37
:
: July 12, 2001

On June 13, 2001, the Board of Indian Appeals (Board) affirmed an order denying rehearing entered in the estate of Decedent Marlon Murray George on October 20, 2000, by Administrative Law Judge William E. Hammett. 36 IBIA 184. On July 5, 2001, the Board received a petition for reconsideration of that decision. For the reasons discussed below, the Board denies reconsideration.

Appellant Elizabeth Jefferson, as guardian for Decedent's minor children, Marlaina and Shelain George, contends in her petition for reconsideration:

- 1) Administrative Judge Hammett never responded to the motion filed with him to clarify the timeliness of the motion for rehearing. Appellant needed that ruling to file further documents with the Board of Indian Appeals.
- 2) This is an issue of great concern that should be carefully examined, that is, the question of whether children born after the date of decedent's will, are excluded from the decedent's estate because they weren't mentioned in the will.
- 3) The parties are in settlement discussions and all matters should be stayed pending this motion and the appeal to federal court.

The Board's June 13, 2001, decision was based on the fact that, although advised that her opening brief on appeal was due on or before May 4, 2001, Appellant did not file a brief or any other statement of her position in this matter. The Board found that Appellant had not made any allegation of how Judge Hammett's decision was in error and had therefore failed to carry her burden of proof.

Appellant was advised that the Board had jurisdiction over this case. She was advised of the due date of her brief. She needed nothing further from Judge Hammett in order to proceed with her appeal. Furthermore, if this case raised an issue of great concern, Appellant needed only to pursue the matter before the Board. She failed to do so.

43 C.F.R. § 4.315(a) provides that reconsideration of a Board decision “will be granted only in extraordinary circumstances.” The Board finds that Appellant has not shown that extraordinary circumstances exist here that warrant reconsideration.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, this petition for reconsideration is denied.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Anita Vogt
Administrative Judge